



SECRETARY OF THE ARMY
WASHINGTON

JUL 14 2006

The Honorable Christopher Shays
Chairman
Subcommittee on National Security, Emerging
Threats and International Relations
Committee on Government Reform
United States House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

Thank you for your letter to the Secretary of Defense requesting information from then Brigadier, now Major General Jerome Johnson, Commander U.S. Army Field Support Command, regarding the cost of third-tier subcontractors for security contracts under the Army's Logistics Civil Augmentation Program (LOGCAP). Secretary Rumsfeld has asked me to respond on his behalf.

Based on information provided to the Army by Kellogg, Brown and Root (KBR), KBR has never directly hired a private security contractor in support of the execution of a statement of work under any LOGCAP III Task Order. Additionally, KBR has queried ESS and they are unaware of any services under the LOGCAP contract that were provided by Blackwater USA. KBR is continuing to look into whether any private security firm may have been hired by ESS or any other subcontractor (including Regency Hotel) in support of LOGCAP III.

Under the provisions of the LOGCAP contract, the U.S. military provides all armed force protection for KBR unless otherwise directed. Additionally, the LOGCAP contract states that KBR personnel cannot carry weapons without the explicit approval of the theater commander. To date, KBR has not pursued any requests under the LOGCAP contract for personnel to carry weapons nor has the theater commander directed or authorized KBR or any LOGCAP subcontractor to carry weapons. KBR has stated they have no knowledge of any subcontractor utilizing private armed security under the LOGCAP contract.

In regards to your request for reports analyzing the cost of paying contractors for security services or logistical support, we are unaware of any Department of Defense reports in these areas. The Congressional Budget Office (CBO) has produced a report titled "Logistics Support for Deployed Military Forces," dated October 2005 which compares the cost of paying contractors to provide security services or logistical support under the LOGCAP contract with the cost to the Army of providing the services or support itself. A copy of that report is enclosed.

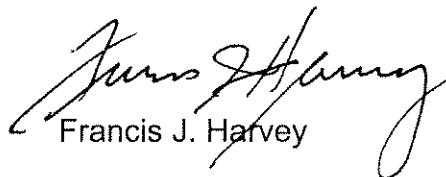
With respect to withholding payments, the Office of the Secretary of Defense approved a deviation to Federal Acquisition Regulation clause 52.216.26, "Payments of Allowable Costs Before Definitization," on February 2, 2005, for task orders issued under the LOGCAP contract (DAAA09-02-D-0007). The deviation authorizes the Department of the Army to reimburse and make payment to the LOGCAP prime contractor on undefinitized task orders at rates up to 100 percent of allowable costs until June 30, 2005 or until the contract actions are definitized, whichever occurs first. The deviation has been extended to June 30, 2007. Given the volatility in requirements under contingency contracting, it is foreseeable there may be additional undefinitized task orders under LOGCAP. However, since March 2005, the use of Undefinitized Contract Actions has been minimized to the maximum extent possible and all such actions issued under the LOGCAP contract have been definitized within the 180 day regulatory requirement.

A process has been developed in conjunction with the Defense Contracts Audit Agency, Army pricing specialists, and the contracting officer to evaluate unsupported costs. KBR is required to provide supporting documentation to the satisfaction of the contracting officer prior to the cost being accepted. I have asked the Office of the Chief of Legislative Liaison (OCLL) to work directly with your staff to address any specific issues surrounding unsupported costs, or other issues needing additional clarification.

Finally, regarding the request for copies of KBR's subcontract with ESS and Regency Hotel, as well as any consent package for the KBR-ESS subcontract, this information has been requested from KBR, and will be forwarded to Committee staff upon receipt.

I trust this information will resolve the matter to your satisfaction. I am providing a courtesy copy of this letter to Representative Waxman.

Sincerely,



Francis J. Harvey

Enclosure